

### **REMARKS**

In the Office Action of June 15, 2009, all of the claims stand rejected in view of prior art. Claims 7, 8, 17, 18 and 19 also were rejected as being indefinite.

#### ***Status of Claims and Amendments***

In response to the Office Action, Applicants have amended claims 1, 7, 8, 17-19 and 20 as indicated above. In addition, claims 6 and 22 have been cancelled, while new claims 24 and 25 have been added. Applicants wish to thank the Examiner for the thorough examination of this application. In summary, claims 1-5, 7-21 and 23-25 are pending, with claims 1 and 20 being the only independent claims. Reexamination and reconsideration of the pending claims are respectfully requested in view of the above amendments and the following comments.

#### ***Claim Rejections - 35 U.S.C. §112***

In paragraph 2 of the Office Action, claims 7, 8, 17, 18 and 19 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite with regard to the term "type." In response, Applicants have amended claims 7, 8, 17, 18 and 19 to remove the term "type." Therefore, Applicants believe that the claims now comply with 35 U.S.C. §112, second paragraph. Withdrawal of the rejection is respectfully requested.

#### ***Rejections - 35 U.S.C. § 102***

In paragraph 3 of the Office Action, claims 1, 2, 7, 17, 20 and 23 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,087,003 (Drengler et al.). In response, Applicants have amended independent claims 1 and 20 to clearly distinguish the prior art of record. In particular, independent claims 1 and 20 have been amended to include the subject matter of claims 6 and 22 which were rejected under 35 U.S.C. §103(a). Thus, this rejection is now considered to be moot.

Moreover, Applicants believe that dependent claims 2-5, 7-19, 21 and 23 are also allowable over the prior art of record in that they depend from independent claims 1 and 20, respectively, and therefore are allowable for the reasons stated above. Also, these dependent claims are further allowable because they include additional limitations. Thus, Applicants believe that since the prior art of record does not anticipate independent claims 1 and 20, neither does the prior art anticipate the dependent claims.

Applicants respectfully request withdrawal of the rejection.

***Rejections - 35 U.S.C. § 103***

In paragraph 7 of the Office Action, claims 3-6, 21 and 22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Drengler et al. In paragraph 8, claims 9-12, 18 and 19 are rejected as unpatentable over Drengler et al. in view of U.S. Patent Application Publication No. 2003/0175588 (Zhang). Finally, claims 8 and 13-16 are rejected as unpatentable over Drengler et al. in view of U.S. Patent No. 4,687,598 (Varma). In response, Applicants have amended independent claims 1 and 20 as mentioned above.

Independent claims 1 and 20 now recite that the second material coating exhibits **a porosity of about 30% to about 40% after compressing the coated collector at the second pressure**. Clearly, this structure is *not* disclosed or suggested by Drengler et al., the combination of Drengler et al. and Zhang, or the combination of Drengler et al. and Varma.

Drengler et al. fails to suggest the porosity range now recited in the independent claims. On page 4 of the Office Action, it is alleged that, in view of Drengler et al., compression amounts and porosity ranges are “‘result effective’ variables which are deemed as obvious modification [sic] of the prior art.” Applicants respectfully disagree. As discussed in the present application, porosity is a result of various factors, including the volume and the weight of the active material, the type of active material, and the pressure at

which the active material is compressed. As seen in column 2 of Drengler et al., pressures ranging from 0.5 to 10 tons per square inch (approximately 6.89 to 137.9 MPa) are used to optimize compression of the active materials, while the disclosed examples of the present application employ pressures ranging from 200 to 500 MPa. Thus, this pressure range of Drengler et al. is much less than that disclosed in the present application. In general, it is clear that the specific porosity range (30%-40%) recited in independent claims 1 and 20 is *not* disclosed or suggested by Drengler et al. In fact, no porosity range at all is disclosed in this prior art. Hence, the disclosure of Drengler et al. fails to render obvious the subject matter of the amended independent claims.

Applicants believe that dependent claims 2-5, 7-19, 21 and 23 are also allowable over the prior art of record in that they depend from independent claims 1 and 20, respectively, and therefore are allowable for the reasons stated above. Also, these dependent claims are further allowable because they include additional limitations. Thus, Applicants believe that since the prior art of record does not disclose or suggest the invention as set forth in independent claims 1 and 20, the prior art of record also fails to disclose or suggest the inventions as set forth in the dependent claims. Moreover, the additional references do not provide for the deficiencies of Drengler et al. with respect to claims 1 and 20.

Under U.S. patent law, the mere fact that the prior art can be modified does *not* make the modification obvious, unless an *apparent reason* exists based on evidence in the record or scientific reasoning for one of ordinary skill in the art to make the modification. See, KSR Int'l Co. v. Teleflex Inc., 127 S.Ct. 1727, 1741 (2007). The KSR Court noted that obviousness cannot be proven merely by showing that the elements of a claimed device were known in the prior art; it must be shown that those of ordinary skill in the art would have had some "apparent reason to combine the known elements in the fashion claimed." Id. at

1741. The current record lacks any apparent reason, suggestion or expectation of success for combining the patents to create Applicants' unique method/process of cell electrode production.

Therefore, Applicants respectfully request that these rejections be withdrawn in view of the above comments and amendments.

#### *New Claims*

Applicants have added new claims 24 and 25 by the current Amendment. Claims 24 and 25 depend from independent claim 1 and are thus believed to be allowable for the reasons stated above. Moreover, the prior art references fail to disclose the subject matter of new claims 24 and 25. Therefore, Applicants believe these claims are allowable over the prior art of record.

#### *Prior Art Citation*

In the Office Action, additional prior art references were made of record. Applicants believe that these references do not render the claimed invention obvious.

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In view of the foregoing amendment and comments, Applicants respectfully assert that claims 1-5, 7-21 and 23-25 are now in condition for allowance. Reexamination and reconsideration of the pending claims are respectfully requested.

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